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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,549	10/04/2000	Rois O. Cordova	INTL-0473-US(P10020)	5766

21906 7590 07/28/2003

TROP PRUNER & HU, PC  
8554 KATY FREEWAY  
SUITE 100  
HOUSTON, TX 77024

EXAMINER

FLYNN, KIMBERLY D

3

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 07/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n N .

09/678,549

Applicant(s)

CORDOVA, ROIS O.

Examiner

Kimberly D Flynn

Art Unit

2153

-- The MAILING DATE of this communication appears n the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_ .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ . 6) ☐ Other: .

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on January 13, 2003, is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5-6, 9-11, 15-16, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd.

In considering claims 1, 11, 21, and 25, while Shepherd discloses forwarding a software package together with a destination address of a terminal, which is to receive the software package (col. 3, lines 42-51), Shepherd does not particularly disclose forwarding a plurality or a list of addresses. Nonetheless, the uses and advantages for forwarding a list of addresses, which are to receive the distributed software instead of a single address, would have been well known to one skilled in the relevant art at the time the invention was made. It would have been obvious to modify to system to forward not only one address but a list of addresses in order have the

terminal distribute software to a plurality of terminals instead of a single terminal as specified by addresses. Such a modification would expand the capability of the system, thus allowing a large number of clients to be serviced concurrently.

and enabling said first processor-based system to automatically forward said software package together with at least part of said list of addresses to a second processor-based system, said second processor-based system being on said list of addresses (*See fig. 5 and col. 3, lines 1-19*).

In considering claims 5 and 15, while Shepherd discloses forwarding a transfer complete message to the management station to advise the management station that the software package has been transmitted to the specified terminal Shepherd does not disclose sending the software package together with a checksum to enable the second processor-based system to confirm with the first processor-based system that the software package was received correctly.

Nonetheless, the method of receipt confirmation is merely a design choice and would not change the overall functionality of the system. It would have been obvious to a person having ordinary skill in the art to include sending the software package along with a checksum to confirm that the software package was received correctly as an alternate delivery confirmation method. Therefore, the claimed limitation would have been an obvious modification the system disclosed by Shepherd.

In considering claims 6 and 16, Shepherd discloses including causing said first processor-based system to forward said software package to said second and a third processor-based system (*col. 4, lines 43-51*).

In considering claims 9 and 19, Shepherd discloses transferring said software package together with software that enables said second processor-based system to transfer said software package to a third processor-based system (*col. 4, lines 20-27*).

In considering claims 10 and 20, Shepherd discloses enabling said first processor-based system to forward said software package to said second processor-based system during a low activity time on said first processor-based system (*col. 4, line 28-42*).

In considering claims 22, Shepherd discloses a system wherein the device is a server. (*While Shepherd does not refer to the device 12 of fig 1, as a server; it performs all of the functions of a server and is therefore functionally equivalent to a server*).

In considering claims 23, Shepherd discloses wherein said server is a network management server (*see fig. 1, means (12)*).

In considering claims 24, Shepherd discloses wherein said device is a client (*see fig. 1, means (16-1-n)*).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 7-8, 12-14, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd in view of Mapson.

In considering claims 2-4, 7-8, 12-14, and 17-18, While Shepherd discloses the system substantially as claimed, Shepherd does not disclose the step of encrypting the software package for transmission between said first and second processor-based systems and changing the encryption in a known fashion with each successive transfer from one to the next processor-based system. Nonetheless, encrypting software packages and changing the encryption with each transfer of the software was well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Mapson.

In similar art, Mapson discloses a distribution system with authentication that provides a method of distributing one or more copies of goods and/or services wherein the Integrity Check Value (ICV) is recalculated in a manner determinable from both the first location and the product. The product, including the recalculated ICV; is then distributed to a second location remote from the first location where the IVC of the distributed product is compared to the IVC known to the first location (*see Mapson, page 1, lines 30-32; through page 2, lines 1-9*). Therefore, one of ordinary skill in the art would have found it obvious to incorporate and implement the recalculated ICV in Shepherd's system in order to ensure the integrity of software distributed over an at least partially insecure network.

In considering claims 2 and 12, Mapson further discloses enabling said first processor-based system to install said software package on said first processor-based system, make a copy of said software package, and transmit said software package to said second processor-based system (*see Mapson, page 2, lines 7-8*).

In considering claims 3 and 13, Mapson further discloses causing said first processor-based system to automatically authenticate said software package (*see Mapson, page 4, lines 31-32 through page 5, lines 1-2 and 15-16*).

In considering claims 4 and 14, Mapson further discloses causing said second processor-based system to automatically authenticate said software package by sending a message to said first processor-based system (*see Mapson, page 8, lines 23-29*).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D Flynn whose telephone number is 703-308-7609. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:


(703) 746-7238, for After Final communications

(703) 746-7239, for Official communications

(703) 746-7240, for Non-Official/Drafts.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Kimberly D Flynn  
Examiner  
Art Unit 2153

  
Dung C. Dinh  
Primary Examiner